

§ 455.143 Grant awards for State administrative expenses.

(a) For the purpose of defraying State expenses in the administration of technical assistance programs in accordance with subpart E and energy conservation measures in accordance with subpart F or energy conservation measures non-Federally funded pursuant to § 455.121, DOE may make grant awards to a State:

(1) Immediately following public notice of the amounts allocated to a State for the grant program cycle, and upon approval of the application for administrative costs, in an amount not exceeding \$50,000;

(2) Concurrent with grant awards for approved applications for technical assistance or energy conservation measures for institutions in that State and upon approval of an application for administrative costs, in an amount not exceeding the difference between the amount granted pursuant to paragraph (a)(1) of this section and 5 percent of the Federal share of the total amount of grants awarded within the State for technical assistance programs and energy conservation measures in the applicable grant program cycle; or

(3) Upon receipt by DOE of documentation from the State demonstrating that sufficient non-Federal funding has been obligated or legally committed to schools and hospitals for energy conservation measures pursuant to § 455.121(a) and § 455.123(b)(2), and upon approval of an application for administrative costs, in an amount not exceeding the difference between the amount granted pursuant to paragraph (a)(1) of this section and 5 percent of the aggregate Federal and non-Federal funds obligated or legally committed to eligible recipients in the State to provide technical assistance, program assistance, and marketing programs and implement energy conservation measures consistent with this part, for the fiscal year concerned.

(b) Grants for such purposes may be made for up to 100 percent of the projected administrative expenses, not to exceed the State's allocation or the \$50,000 or 5 percent limit, as approved by DOE.

(c) The total of all grants for State administrative costs, technical assist-

ance programs, and energy conservation measures (or for State administrative costs, technical assistance, program assistance, and marketing, if the State elects and is eligible to apply for such grants) in that State shall not exceed the total amount allocated for that State for any grant program cycle.

(d) In the event that a State cannot or decides not to use the amount available to it for an administrative grant under this section for administrative purposes, these funds may, at the discretion of the State, be used for technical assistance and energy conservation grants to eligible institutions within that State in accordance with this part.

§ 455.144 Grant awards for State programs to provide technical assistance, program assistance, and marketing.

(a) For the purpose of defraying State expenses in the administration of special programs to provide technical assistance and program assistance pursuant to § 455.121, DOE may make a grant award to a State for up to 100 percent of the funds allocated to the State for the grant program cycle, provided that the State meets the requirements described in § 455.121(b). In addition:

(1) Funds for individual technical assistance programs provided by the State pursuant to this section shall not exceed 50 percent of the cost of the technical assistance program;

(2) Grants for program assistance may be made for up to 100 percent of a State's projected program assistance expenses; and

(3) Grants for State technical assistance, and program assistance programs may be awarded by DOE upon approval of an application from the State.

(b) For the purpose of defraying State expenses in the administration of a marketing program pursuant to § 455.121, DOE may make a grant award to a State for up to 50 percent of the funds allocated to the State for the grant program cycle, provided that the State meets the requirements described in § 455.121(b). In addition:

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(1) Grants for marketing may be made for up to 100 percent of a State's projected marketing expenses; and

(2) Such grants may be awarded by DOE upon approval of an application from the State.

(c) If a State provides a certification under section 455.121(b) and is unable to document that the required non-Federal funding levels for energy conservation measures were achieved substantially for the previous fiscal year for which a similar certification was submitted, DOE may deny the application, accept it after the percentage of allocated funds is reduced in light of past performance, or take other appropriate action.

(d) In the event that a State, after receiving a grant under this section, cannot or decides not to use all or part of the amount available to it for technical assistance, program assistance, and marketing, these funds may, at the discretion of the State and after appropriate application to and approval of DOE, be used for technical assistance and energy conservation grants to eligible institutions within that State in accordance with this part.

Subpart N—Administrative Review

§ 455.150 Right to administrative review.

(a) A State shall have a right to file a notice requesting administrative review of a decision under § 455.143 by a Support Office Director to disapprove an application for a grant award for State administrative expenses subject to special conditions or a decision under § 455.21 of this part by a Support Office Director to disapprove a State Plan or an amendment to a State Plan.

(b) A State shall have a right to file a notice requesting administrative review of a decision under § 455.144 by a Support Office Director to disapprove an application for a grant award for State technical assistance, program assistance, or marketing programs.

(c) A school, hospital, coordinating agency, or State acting as an institution's duly authorized agent shall have a right to file a notice requesting administrative review of a decision under § 455.140 by a Support Office Director to disapprove an application for a grant

award to perform technical assistance programs or to acquire and install an energy conservation measure if the disapproval is based on a determination that:

(1) The applicant is ineligible, under § 455.61 or § 455.71 or for any other reason; or

(2) An energy use evaluation submitted in lieu of an energy audit is unacceptable under the State Plan; or

(3) A technical assistance program equivalent performed without the use of Federal funds does not comply with the requirements of § 455.62 for purposes of satisfying the eligibility requirements of § 455.71(a)(3).

§ 455.151 Notice requesting administrative review.

(a) Any applicant shall have 20 days from the date of receipt of a decision subject to administrative review under § 455.150 to disapprove its application for a grant award to file a notice requesting administrative review. If an applicant does not timely file such a notice, the decision to disapprove shall become final for DOE.

(b) A notice requesting administrative review shall be filed with the Support Office Director and shall be accompanied by a written statement containing supporting arguments.

(c) If the applicant is a State appealing pursuant to paragraph (a) of § 455.150, the State shall have the right to a public hearing. To exercise that right, the State must request such a hearing in the notice filed under paragraph (b) of this section. A public hearing under this section shall be informal and legislative in nature.

(d) A notice or any other document shall be deemed filed under this subpart upon receipt.

§ 455.152 Transmittal of record on review.

On or before 15 days from receipt of a notice requesting administrative review which is timely filed, the Support Office Director shall forward to the Deputy Assistant Secretary the notice requesting administrative review, the decision to disapprove as to which administrative review is sought, a draft recommended final decision for concurrence, and any other relevant material.